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8 **UNITED STATES DISTRICT COURT**

9 EASTERN DISTRICT OF CALIFORNIA

10 VETERANS PAINTING CONTRACTORS,
11 INC.,

12 Plaintiff,

13 v.

14 STRAUB CONSTRUCTION, INC., et al.,

15 Defendants.

Case No. 1:20-cv-00036-DAD-SAB

ORDER STRIKING INCORRECT FILING

ORDER VACATING ALL DATES AND
DIRECTING CLERK OF COURT TO
CLOSE CASE AND ADJUST DOCKET TO
REFLECT VOLUNTARY DISMISSAL

(ECF Nos. 6, 7)

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17 On March 6, 2020, Plaintiff filed a notice of voluntary dismissal of this action that
18 contains an incorrect party name in the body of the filing. (ECF No. 6.) On the same date,
19 Plaintiff then filed a notice of voluntary dismissal with prejudice pursuant to Rule 41(a)(1) of the
20 Federal Rules of Civil Procedure, with the correct name of Plaintiff in the body of the filing.
21 (ECF No. 7.)¹

22 “[U]nder Rule 41(a)(1)(A)(i), ‘a plaintiff has an absolute right to voluntarily dismiss his
23 action prior to service by the defendant of an answer or a motion for summary judgment.’ ”
24 Commercial Space Mgmt. Co., Inc. v. Boeing Co., Inc., 193 F.3d 1074, 1077 (9th Cir. 1999)
25 (quoting Wilson v. City of San Jose, 111 F.3d 688, 692 (9th Cir. 1997)). The Ninth Circuit has
26 held that Rule 41(a) allows a plaintiff to dismiss without a court order any defendant who has yet
27 to serve an answer or motion for summary judgment. Pedrina v. Chun, 987 F.2d 608, 609 (9th

28 ¹ In the future, counsel may file a notice of errata to notify the Court of the reason for duplicate filings.

1 Cir. 1993). “[A] dismissal under Rule 41(a)(1) is effective on filing, no court order is required,
2 the parties are left as though no action had been brought, the defendant can’t complain, and the
3 district court lacks jurisdiction to do anything about it.” Commercial Space Mgmt. Co., Inc., 193
4 F.3d at 1078. In this action, no defendant has filed an answer or motion for summary judgment.

5 Accordingly, IT IS HEREBY ORDERED that:

- 6 1. The notice of voluntary dismissal filed on March 6, 2020 using the incorrect name
7 for Plaintiff (ECF No. 6), is STRICKEN FROM THE RECORD;
- 8 2. All pending dates are VACATED; and
- 9 3. The Clerk of the Court is DIRECTED to CLOSE the file in this case and adjust
10 the docket to reflect voluntary dismissal of this action pursuant to Rule 41(a).

11 IT IS SO ORDERED.

12 Dated: **March 9, 2020**

13 
14 UNITED STATES MAGISTRATE JUDGE